

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

CASE NO. 8:06CV238

Plaintiff,

v.

ORDER

**RITA ENGLER, Deceased, STATE OF
NEBRASKA, ex rel., LINDA S. ESCH,
BYRON R. ENGLER, MARY E.
WINTER, BERNARD J. ENGLER,
JENNIFER C. ROTHCHILD, REBECCA
A. MILES, UNKNOWN HEIRS,
EXECUTORS, ADMINISTRATORS,
DEVISEES, TRUSTEES, LEGATEES,
CREDITORS AND ASSIGNEES OF
SUCH OF THE DEFENDANTS AS
MAY BE DECEASED, and UNKNOWN
SPOUSES OF THE DEFENDANTS,**

Defendants.

The matters before the Court are (1) the Motion to Distribute Excess Sale Proceeds (Filing No. 39), filed by attorney Robert Schafer on behalf of Byron Engler, Mary Beth Winter, Bernard J. Engler, Jennifer Rothchild, Rebecca Miles, and Linda Esch (collectively “Heirs”); (2) the Objection to Proposed Distribution to Heirs, Statement of Claim, and Motion for Distribution to NDHHS (Filing No. 40), filed by the State of Nebraska Department of Health and Human Services (“NDHHS”); and (3) the Joint Stipulation for Distribution to NDHHS (Filing No. 42).

These proceedings were originally brought by the United States seeking foreclosure of real property that had been owned by the deceased, Rita Engler, for payment of an outstanding sum owed under a promissory note and subsidy repayment agreement executed between the United States and Ms. Engler. The money received in the

foreclosure action exceeded the debt owed to the United States, and the balance was paid into the Court's registry and was ordered by this Court to be held until such time as an appropriate person made a claim. Subsequent to that Order, the Heirs filed a claim to have the excess funds distributed to them. NDHHS filed an objection to the distribution to the Heirs, and moved that the excess funds be paid to the State of Nebraska as reimbursement for Medicaid benefits received by Ms. Engler. The parties then stipulated that NDHHS's claim be allowed. No other person or entity has made a claim for the funds currently held in the Court's registry.

I find that the joint stipulation should be approved, and that NDHHS's motion for distribution should be granted. Further, it appears that the Heirs are entitled to the remaining funds, if any, and their motion for distribution will be granted accordingly.

IT IS ORDERED:

1. The Joint Stipulation for Distribution to NDHHS (Filing No. 42) is approved;
2. The Motion for Distribution to NDHHS (Filing No. 40) is granted;
3. The Motion to Distribute Excess Sale Proceeds (Filing No. 39) is granted as modified; and
4. The Clerk of the Court is directed to distribute the balance of the funds currently held in the Court's registry, pursuant to this Court's February 1, 2007, Order (Filing No. 37), as follows:
 - A. First: \$6,285.29 to the State of Nebraska Department of Health and Human Services, as set out in the Motion for Distribution to NDHHS (Filing No. 40) and the Joint Stipulation for Distribution to NDHHS (Filing No. 42); and

- B. Second: the remainder, if any, to Robert Schafer for disbursement as set out in the Motion to Distribute Excess Sale Proceeds (Filing No. 39).

DATED this 25th day of April, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge